RAJYA SABHA

Monday, the 17th August, 1992/the 26th Sravana, 1914 (Saka)

The House met at eleven of the clock.

The Deputy Chairman in the Chair.

ORAL ANSWERS TO QUESTIONS

निःशुल्क कानूनी सहायता

*521. **श्री राजूभाई ए. परमार** क्या **विधि, न्याय और कंपनी कार्य** मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि उच्च न्यायालयों द्वारा केवल उन्हीं व्यक्तियों को निःशुल्क कानूनी सहायता उपलब्ध करायी जाती है जिनकी आय 6,000/- रुपए प्रति वर्ष तक है ;

(ख) यदि हां, तो क्या सरकार इस आय सीमा को बढ़ाकर 12,000/- रु. प्रति वर्ष करने का विचार रखती है; और

(ग) यदि हां, तो उसका ब्यौरा क्या है ?

विधि, न्याय और कम्पनी कार्य मंत्रालय में राज्य मंत्री (श्री हंसराज भारद्वाज) : (क) जी हां। किन्तु विद्यमान आय संबंधी अधिकतम सीमा अनुसूचित जातियों, अनुसूचित जनजातियों, विमुक्त जातियों, यायावरी जनजातियों से संबंधित व्यक्तियों, महिलाओं और बालकों के मामले में लागू नहीं होती है।

(ख) और (ग) यह प्रस्ताव है कि आय की अधिकतम सीमा को बढ़ा कर 9000/- रुपये प्रति वर्ष या ऐसी अन्य रकम तक कर दिया जाए जो संबंधित राज्य विधिक सहायता और सलाह बोर्ड द्वारा विहित की जाए।

SHRI RAJUBHAI A. PARMAR: Madam, we have come across reports that certain State Legislatures have already raised the income limit to Rs. 12,000/- per annum. This is done every now and then and by one Legislature or another. As such, there is no uniformity in this law. In this context, I would like to know why, when the value of the rupee continues to decline, a uniform law or a model law, irrespective of the changes in the poverty line, cannot be passed raising the limit in keeping with the declining money value. What steps are being taken to evolve a model uniform law?

SHRI H. R. BHARDWAJ: Madam, you are aware that the National Legal Aid Authority Bill was passed by the Rajya Sabha and it is now pending in the Lok Sabha. We have no problem in considering even increasing the limit from Rs. 6,000/- onwards. As a matter of fact, if the honourable Member would like to know, there are some States like Maharashtra and Assam, which have already increased the limit of income. Considering the importance of legal aid in the process of administration of justice, I think these questions are being considered at the State level by the State Legal Aid Boards because the National Legal Aid Authority Bill has still not become the law. So, we are pressing the State Legal Aid Boards to look into this and see that wherever it is possible, they do this.

THE DEPUTY CHAIRMAN: You put your second supplementary.

SHRI RAJUBHAI A. PARMAR: Madam, article 39A of the Constitution requires that the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. I would like to know in this context whether all the States have suitable legislation

or other schemes for providing legal aid to the poor and to ensure that justice is not denied to anyone for economic or any other reason.

SHRI H. R. BHARDWAJ: Madam, I subscribe to the basic requirement of article 39A and it should be done by all the States and all the parties concerned. I woud like to inform the honourable Member that in 1980, when the Congress (I) came back to power, through a resolution, a Legal Aid Committee, under Mr. Justice Bhagwati, was constituted and thereafter, the legal aid movement picked up in the country and that was also in relation to article 39A. The State of Madhya Pradesh, the State of Karnataka and the Stae of Bihar were the three States which passed separate laws regarding legal aid and started a very comprehensive movement for legal aid in the States. Thereafter, the other States have constituted Legal Aid Boards and I can say with confidence, having worked in this Ministry for five years earlier that almost all the States have Legal Aid Boards well constituted under the various authorities and they are functioning. But article 39A is still not very much implemented in letter and spirit and I feel that much mort can be done and that is why, Madam, we brought forward this Bill, the National Lgeal Aid Authority Bill, to strengthen the spirit of article 39A.

And, I hope in times to come, the constitutional mandate of Article 39A would be implemented both in letter and spirit.

SHRI SARADA MOHANTY: Madam Deputy Chairman, I want to know from the hon. Minister as to how many persons in Orissa got this help during the last three years.

SHRI H. R. BHARDWAJ: Madam, in Orissa, the number of people helped is: general—32,460; Scheduled Castes — 17,367; Scheduled Tribes—15,162; Women—15,655; Children—267; a total of 80,917.

AN HON. MEMBER: In which year?

SHRI H. R. BHARDWAJ: This from 1980 to 1.6.1992.

चौधरी हरि सिंह : माननीय जी, ये अनुसूचित जाति, जनजाति और विमुक्त जाति के लोगों को लीगल फ्री ऐड देने के सिलसिले में जो यह प्रावधान किया गया है यह बहुत ही अच्छा है लेकिन देखना ये है कि सारे मुल्क के अन्दर कुछ राज्यों में जो डिस्ट्रिक्ट लेवल पर इनको एजेंसी बननी चाहिए थी, फ्री लीगल ऐड देने के लिए वह एजेंसियां अभी तक बनी नहीं, उनके वकील और ऐडवोकेट अभी तक मुकर्रर हुए नहीं। जो कहीं पर बना दिए गए थे, दूसरी सरकार आने पर पहले जो वकील और ऐडवोकेट इनको फ्री ऐड देने के लिए तैनात किए गए थे उनको डिसमिस कर दिया गया। उनकी जगह पर दूसरे वकील तैनात नहीं किए गए। इससे ये शैड्यूल कास्ट के लोगों को जो फ्री लीगल ऐड देने का उपाय था और सहायता थी, वह उनको नहीं मिल रही है। मैं माननीय मंत्री जी से जानना चाहता हूं कि इस संबंध में कोई जांच पड़ताल करा के सारे देश के अन्दर ये उपाय करेंगे कि जल्दी से जल्दी हर डिस्ट्रिक्ट में फ्री लीगल ऐड देने के लिए आदमियों को मुकर्रर किया जाए, ऐडवोकेट्स को मुकर्रर किया जाए और यह भी देखा जाए कि कितने मुकदमों में ये लीगल ऐड पाने के लिए शेड्यूल कास्ट के लोगों ने प्रार्थनापत्र दे रखे हैं और उनमें से कितनों का फुलफिलमेंट कर दिया गया है।

श्री हंसराज भारद्वाज : मैडम, जैसा मैंने पहले अर्ज किया कि शैड्यूल कास्ट और शैड्यूल ट्राइब्ज के लिए कोई आय की सीमा नहीं है। तो चाहे उनकी आय ज्यादा भी हो, तो भी उनके लिए अनिवार्य रूप से लीगल ऐड दी जाएगी। जहां तक जिलों में और तालुका लेवल में लीगल ऐड के प्रोविजन का सवाल है वह तभी हो पाएगा जब नेशनल ऐड अथॉरिटी बिल ऐक्ट की शक्ल में आ जाएगा और राज्य सरकार उसका गठन करेंगी। उनमें सेंट्रल अथॉरिटी

की तरफ से जो वित्तीय सहायता होगी वह उन बोड्स को जाएगी और वह अपने भिन्न-भिन्न राज्यों में लीगल ऐड बोर्ड जिला स्तर पर कायम करेंगे और यह तभी होगा जब यह कानून पास हो जाएगा।

SHRI SATISH PRADHAN: Madam, through you, I want to know from the hon. Minister whether these facilities are available to the civil side or the criminal side or both. Secondly, when we are making some payment to the advocates while giving this legal aid, how much money are we paying to the advocates? Thirdly, Madam, there are so many people who do not have any money, but in civil matters, they want to file suits to recover their money, and they are not in a position to recover it because they do not have money. Are we in a position to give some aid to them?

SHRI H. R. BHARDWAJ: Madam, legal aid is provided both in civil and criminal sides. As a matter of fact, in the criminal law, there is an in-built provision in the Code of Criminal Procedure to provide legal aid to the destitute accused person. But legal aid provisions are separate, and it is provided in both sides. As to how much money is being paid to the lawyers, that is precisely the job of the court, which gives legal aid to decide as to how much money can be given under the resources available to them. I am not able to give it exactly. There are no norms for giving fees to the lawyers. I agree that the people who are resourceless, belong to weaker sections and who need money and protection under the legal aid, should get the priority and that should be met by the State resources, and that is why there is a provision in today's guidelines that with regard to the Scheduled Castes, the Scheduled Tribes, women and children which according to the guidelines are the weakest in the society, they should be given legal aid irrespective of their income. With regard to money source, I don't think we should ask for legal aid in these cases because the one who lends money to somebody, cannot ask the State to pay to get his money back, because only that person will lend money who has got the money. With regard to enforcement of the rights of people like the Scheduled Castes, the Scheduled Tribes, the weaker sections and the backward sections,, legal aid is necessary for the protection of their rights,-and that is the spirit of the legal aid movement.

श्री रामजी लाल: माननीय उपसभापति महोदया, सरकार ने जो कानूनी सलाह के लिए ऐडवोकेट नियुक्त किए हैं उनकी क्या पहचान है? जैसे माननीय सदस्य ने भी कहा था कि जनता मदद के लिए उन तक कैसे पहुंचे, यह भी दिक्कत है। उनकी पहचान भी होनी चाहिए। जैसे 6000 से 9000 कहा है। हम तो यह कहेंगे कि आज मजदूर की जो मजदूरी है वह 34-35 रुपए है। एक महीने में एक हजार हो जाता है। तो मैं समझता हूं कि 12000 से ज्यादा की जाए। आपके द्वारा मैं माननीय मंत्री जी से प्रार्थना करूंगा कि इसको बढ़ाएं।

श्री हंसराज भारद्वाज: मैंने अर्ज किया कि स्टेट लीगल ऐड बोर्डज हर राज्य में है और उनके पैनल ऑफ लायर्स मुकर्रर होते हैं। उनके नीचे हाई कोर्ट के लेवल पर और जिलों के लेवल पर उनकी लिस्ट वहां के संबंधित अधिकारियों के पास होती है और वहां उनके दफ्तर भी हैं। तो जो भी व्यक्ति लीगल ऐड लेना चाहे वह उन दफ्तरों में जाकर प्रार्थना कर सकते हैं।

जहां तक आय की सीमा बढ़ाने की बात है, हमारी तरफ से कोई ऐतराज नहीं है लेकिन जैसा मैंने अर्ज किया कि राज्य सरकारों द्वारा गठित जो लीगल ऐड बोर्डज हैं, उनमें से कईयों ने बढ़ाई है। महाराष्ट्र में 20000 रुपया साल कर दिया है क्योंकि उनके पास रिसोर्सेज हैं और वह 20000 तक के आदमियों को कवर कर सकते हैं। सेंटर की तरफ से कोई मनाही ही नहीं है, अगर कोई राज्य बढ़ाना चाहे तो बढ़ाएं। हम इसका स्वागत करेंगे अगर वह ज्यादा आदमियों को लीगल ऐड के दायरे में ला सकते हों।

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Madam, justice should not only be impartial but it must be equal. That is the rationale of legal aid because it helps the scales of justice to be held even. The hon. Minister has frankly admitted and I must appreciate his candour, that there is much to be done in the field in spite of various measures. I want to ask a couple of things. First of all, the resources. I do not think the time is there to tax the State for these resources. A small cess of Rs. 25/-, where thousands and lakhs are spent on litigation on every case, would bring in sufficient amount of resources to have a very, very effective legal aid. Secondly, the Minister has spoken about weaker sections. But there are vulnerable sections, particularly the women, disabled, the physically handicapped and mentally retarded, and for them there is no legal aid at all. So I would like to ask the hon. Minister as to what steps are being taken to see that legal aid is strengthened particularly for these weaker sections. Seondly, I would like to know—because that is the natural corollary—as to what is the monitoring agency to see that there is effective grant of legal aid to vulnerable sections of society.

SHRI H. R. BHARDWAJ: I thank the hon. Member for his views on legal aid and I welcome it. But is will require the involvement of not only the resources but as I said at the outset, persons like the hon. Member, members of the Bar, members of the judiciary and the State Governments will have to come out in lot.

Madam, we have concern for equality. We have the concept of equality, under article 14 of the Constitution. Therefore, there can be no equality unless there is equality in resources, unless there is equality in the fight for judicial rights. Not only we should look to the resources of the backward communities, Scheduled Castes, Scheduled Tribes, women, children and disabled, but they should also be helped by some competent lawyers who are practising in the courts, because that matters in the decisions of the courts. As I said earlier, after the National Legal Aid Act is passed, we will sit together. We will involve members of the Bar like the hon. Member. Then, we will involve the State Governments. We will also discuss it with the judiciary and see that the dream of equality envisaged under article 14 of our Constitution, is realised.

Madam, this is a movement in which we require the co-operation of every single member of the Bar, every single member of the judiciary and every single member in the society who has a concern for the emancipation of these poor people. It cannot be done just by a few steps. As you know, this movement started in the eighties with a speed, but it had a drawback and it suffered during the last few years. This concern for legal aid, this concern for fighting for the rights of the weaker sections, was not the same as it was in the eighties, this concern which is reflected in the society in its general working. Therefore, I would urge upon hon. Members, if there are any suggestions in this matter, the Government will welcome it. We will try to implement it through the agency of the National Legal Aid Authority Act.

THE DEPUTY CHAIRMAN: Question No. 522 (*Interruptions*)

अरावली पर्वतमाला क्षेत्रों को विकास कार्यक्रम में शामिल किया जाना

*522. **श्री शिवचरण सिंह :**
श्री मूल चन्द मीणा :

क्या योजना और कार्यक्रम कार्यान्वयन मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या पर्वतीय क्षेत्रों के विकास के लिए किसी बोर्ड अथवा निगम का गठन किया गया है ;

(ख) यदि हां, तो किन-किन राज्यों के किन किन पर्वतीय क्षेत्रों को उसके क्षेत्राधिकार में लिया गया है ;

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*सभा में यह प्रश्न श्री शिवचरण सिंह द्वारा पूछा गया।